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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)	
)	
International Settlement Rates)	IB Docket No. 96-261
)	
Petition of AT&T, MCI WorldCom)	DA 99-479
and Sprint for Enforcement of)	
International Settlements)	
Benchmark Rates for Services)	
with Cyprus)	

REPLY OF AT&T, MCI WORLDCOM, AND SPRINT

AT&T Corporation ("AT&T"), MCI WorldCom, Inc. ("MCI WorldCom") and Sprint Communications Company L.P. ("Sprint") (collectively, "U.S. carriers" or "Petitioners") hereby submit this Reply to the Answer of the Cyprus Telecommunications Authority ("CYTA") to the Petition requesting enforcement of the benchmark settlement rate of \$0.15 with respect to switched services between the U.S. and Cyprus. Petitioners have demonstrated that they are unable to negotiate the benchmark rate on this route with CYTA effective January 1, 1999, and CYTA confirms that it is unwilling to enter into any such agreement. Accordingly, to reduce settlement rates on this route to more cost-based levels, the Commission should now enforce the *Benchmarks Order* expeditiously by requiring all U.S. carriers to pay settlement rates no higher than the applicable benchmark rate of \$0.15 for all traffic exchanged with Cyprus from January 1, 1999.

Petitioners' affidavits show that, notwithstanding their good faith efforts, they have been unable to negotiate agreements with CYTA to reduce the settlement rate for switched services between the U.S. and Cyprus to \$0.15 effective January 1, 1999, as

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required by the *Benchmarks Order*.¹ In response, CYTA confirms (p. 3) that it is unwilling to lower settlement rates to the benchmark level at this time by proposing only a "gradual reduction" that would delay U.S. carrier implementation of the Commission's benchmark settlement rate by a year and a half, or until June 2000.

The *Benchmarks Order* makes clear that the transition period for upper-income countries like Cyprus was to be completed by January 1, 1999. Thus, the reductions described by CYTA are facially insufficient to allow U.S. carriers to negotiate settlement rates in compliance with the relevant Commission benchmark.² Further, as demonstrated below, CYTA's claim that it is wrongly classified as an upper-income country, and its other objections that the Commission and the D.C. Circuit have already dismissed, provide no grounds to withhold enforcement.

CYTA's assertion (p. 1) that Cyprus does not qualify as an upper income country because of purportedly low teledensity in certain areas is inapposite. For purposes of determining which countries qualify as "upper income" under the *Benchmarks Order*, the Commission adopted World Bank and ITU country classifications, which in turn are based upon per capita GNP, not teledensity. Moreover, the per capita GNP for Cyprus of \$10,260 (as reported by the World Bank in 1996) is well above the \$8,956

¹ See Affidavits of Thomas R. Luciano of AT&T (dated Feb. 17, 1999), Anthony Scire of MCI WorldCom (dated Feb. 23, 1999), and Daniel P. Dooley of Sprint (dated Feb. 22, 1999) (filed herein as attachments to the Petition).

² *In the Matter of International Settlement Rates*, 12 FCC Rcd 19806 (1997) (Report and Order) ("*Benchmarks Order*"), recon. pending, *aff'd sub nom. Cable and Wireless P.L.C. v. FCC et al.*, No. 97-1612 (D.C. Cir. Jan. 12, 1999), ¶ 165.

threshold for upper income countries.³ In any event, because CYTA does not serve the area of Cyprus occupied by Turkey, CYTA's comments regarding the teledensity of the entire island have nothing to do with the area of Cyprus presently served by CYTA, let alone the per capita GNP criterion established by the *Benchmarks Order*.

CYTA also makes no valid objection to the enforcement of benchmarks by claiming (p. 2) that it has not yet rebalanced its rates. The Commission adopted the benchmark transition schedule, providing high-income countries like Cyprus with a one-year period from implementation of the *Benchmarks Order*, specifically to take account of such concerns.⁴

Any increase in the U.S. settlement deficit with Cyprus that may result from call-back (Answer, pp. 2-3) is equally irrelevant. As the *Benchmarks Order* emphasizes, the key concern to be addressed through enforcement of benchmark settlement rates is not the absolute level of the settlements deficit, but rather the anticompetitive subsidies contained in above-cost settlement rates -- which are ultimately borne by U.S. ratepayers in the form of higher prices.⁵

³ See, e.g., World Bank, *World Development Report 1996*, at 222 (Table 1a).

⁴ *Benchmarks Order*, ¶ 162.

⁵ *Id.*, ¶¶ 13, 36.

Similarly misplaced are CYTA's attempts (pp. 2-3) to challenge the benchmark rate as failing to reflect the supposedly different investment requirements of small operators in small markets and allegedly higher costs of circuits to the Eastern Mediterranean. The Commission found, and the D.C. Circuit affirmed, that the Tariff Component Pricing methodology for the calculation of benchmark rates "more than fully compensates foreign carriers" such as CYTA.⁶ Indeed, many of the settlement rates now in place in Western Europe are well below the level of the benchmark rate.⁷ CYTA's allegations are supported by neither facts nor data and should be disregarded.

Lastly, CYTA has no greater success with its further claims (pp. 2-3) that the *Benchmarks Order* improperly limits contractual freedoms protected by ITU regulations and both countries' constitutions. The D.C. Circuit has made clear that the *Benchmarks Order* is consistent with ITU regulations and that "the Commission may modify such agreements as it deems necessary to serve the public interest."⁸ As the D.C. Circuit further emphasized, there is "no doubt that the Commission has authority to prescribe maximum settlement rates."⁹

⁶ *Cable and Wireless P.L.C. v. FCC et al.*, No. 97-1612, slip op. at 15 (D.C. Cir. Jan. 12, 1999); *Benchmarks Order*, ¶ 171 ("the benchmarks are . . . substantially above any reasonable measure of incremental costs"). See also, *id.* at ¶ 87.

⁷ Some examples are: France (\$0.10), Germany (\$0.10), the Netherlands (\$0.09) and Italy (\$0.11). See FCC International Bureau, *Consolidated Accounting Rates of the United States*, January 1, 1999.

⁸ *Cable and Wireless P.L.C.*, slip op. at 10-11, 14.

⁹ *Id.* at 14.

Accordingly, Petitioners request the Commission to dismiss CYTA's arguments and to act expeditiously to require all U.S. carriers to settle at the \$0.15 benchmark rate for all traffic on the U.S.-Cyprus route from January 1, 1999.

Respectfully submitted,

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April 26, 1999

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply of AT&T, MCI WorldCom, and Sprint was sent by hand or by facsimile and by United States first-class mail, postage prepaid, on this the 26th day of April, 1999 to the parties on the attached service list.

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